

REMARKS/ARGUMENTS:

Claims 1-10 are pending in this Application. In the Office Action dated October 19th, 2004, the Examiner has objected to claims 2-3 and 5-8 for informalities, but ruled that each of claims 3-10 would be allowable if those objections were overcome. The Examiner has also rejected claim 1 under 35 USC 102(a) as being anticipated by US Pat. No. 6,005,852 to Kokko et al. (hereinafter, Kokko), and has further rejected claim 2 under 35 USC 103(a) over Kokko in view of US Pat. No. 6,289,228 B1 to Rotstein et al. (hereinafter, Rotstein).

Elements of claim 3 as presented are indented to better separate them. Claims 2-3 and 5-8 are amended herein to overcome the stated objections, though not each exactly as suggested by the Examiner. In claim 2, the set of CDMA channels recited at lines 3-4 now more clearly draws antecedent basis from the set of CDMA channels recited in line 2 that are allocated for burst packet-switched channels, as appears the intent of the Examiner's suggestion. Also, an extraneous period is deleted following "data" at line 4 of claim 2. Claim 3 is amended per the Examiner's suggestion.

Claims 5-7 are amended to recite that the set of shared reverse link CDMA channels are for use as reverse burst packet-switched channels to distinguish them over those recited in claim 3 (from which claims 5-7 depend). The term "further allocates" in claims 5-7 indicate that the allocation of claims 5-7 is in addition to the allocation recited in claim 3. The Examiner's suggestion implies that he understood the allocation of claims 5-7 as a modification or further limitation to the allocation of claim 3, when in fact claims 5-7 recite that the further allocation is a set of shared *reverse* link CDMA channels.

Claim 8 is amended to recite that at least two of said subscriber stations are assigned to the same forward link data side channel, and that channel multiplexing is used to transmit data packets from the BS to individual ones of those at least two SSs. The Examiner's suggestion appears to require that *all* SSs with which the BS communicates be assigned the same forward link data side channel, which is narrower than the intended scope of claim 8. This amendment to claim 8 more

clearly differentiates those SSs assigned a same forward link data side channel from the entire plurality of SSs with which the BS communicates.

In light of the above amendments, claims 3-10 should now be in condition for allowance.

Respecting the novelty rejection to claim 1, it recites in relevant part:

“employing a side channel as required to send all or a part of a total amount of data, depending on the total amount of the data.”

The Examiner does not refer to a particular passage of Kokko that discloses the claim element immediately above. Kokko is seen to include the following disclosure relevant to claim 1:

- (a) forward and reverse control channels and forward and reverse traffic channels at col. 3, lines 6-17;
- (b) dividing encoded user data among several channels, each having an equal rate and a fixed spreading gain at col. 5, lines 1-2 and 7-14;
- (c) communicating over packet and/or circuit links at col. 5, lines 63-67;
- (d) flexibly allocating resources to optimize network capacity at col. 6, lines 40-52 and col. 7, lines 5-21;
- (e) when the traffic channels are full, desiring MSs then re-request a channel over which to transmit at col. 7, lines 35-43;
- (f) resources are allocated by the BS, apparently only on traffic channels at col. 8, lines 1-10.

Additional disclosure in Kokko is related to a second algorithm by which the BS grants permission to an MS to transmit multiple frames, various aspects of prioritizing users, various message headers, and channel assignments that follow from those headers.

Kokko is not seen to disclose that data may be transmitted over a side channel as recited in the above-repeated clause of claim 1. By item (a) above, traffic channels carry data and control channels carry control information, a concept that is well established in the art. If the Examiner

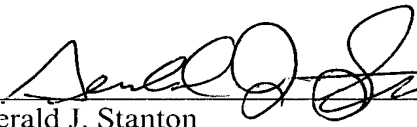
considers Kokko's control channel as a side channel, Kokko is not seen to disclose that data may be carried on a control channel.

Item (b) above relates only to traffic channels, because the text explicitly recites that they carry user data. Further, the equal division of channels by rate and gain implies traffic channels. Item (d) does not disclose that data may be sent over other than a traffic channel, and is not seen to particularly disclose that a side channel may be used to carry data in certain instances. The written description details (at page 16, line 32 to page 17, line 23) two such instances where it may be desirable to send data over a side channel: to enhance "fast-switching" when the data is sent on a side channel along with a (traffic) channel set-up request, and when the volume of data from the SS is so small as to not justify setting up a dedicated (traffic) channel. Kokko is not seen to provide circumstances in which it might be beneficial to send data over a side channel.

Rotstein, which was asserted in combination with Kokko against claim 2, is not seen to teach or suggest the above element of claim 1, and the Examiner does not assert that it does. Therefore, the combination of Kokko and Rotstein also fails to render obvious the above element of claim 1, which is deemed patentable over the cited art. Claim 2 depends from claim 1 and should be patentable for that reason.

For at least the above reasons, the Applicants believe that claims 1 and 2 are both novel and non-obvious over Kokko and Rotstein, and that the objections to claims 3-10 are overcome. The Examiner is respectfully requested to withdraw the claim objections and rejections and pass claims 1-10 to issue. The undersigned representative welcomes the opportunity to resolve any remaining matters via teleconference, as the Examiner sees fit.

Respectfully submitted:



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